

SEXUAL ASSAULT AND FOOTBALLERS IN THE MEDIA 2004: FOREWORD

On February 22nd 2004 a young woman in Coffs harbour alleged that she had been gang-raped by six members of the Canterbury Bulldogs National Rugby League team away on a pre-season trip.¹ A leaked police report graphically detailing her allegation aired by Ray Hadley on Sydney radio station 2GB captured the public imagination and generated intense media interest the story: over 9000 news reports on TV, radio and the press were issued, and at its peak, there were more than 30 talkback callers an hour to 2GB.²

In the wake of the Coffs Harbour incident up to twenty allegations of sexual assault perpetrated by footballers of both the AFL and NRL codes were made public, some resulting from the invitation of AFL chief Andrew Demetriou for victims to come forward. Some of these alleged rapes had occurred years previously; some were so recent they were still under police investigation. Media coverage of the issue reached saturation point within weeks of the Coffs Harbour incident: reporting of the issue was propelled beyond a discussion of the relative merits of the cases at hand and began to be predicated on the basis that there was a problem and it needed to be fixed. However, many aspects of the media's treatment of the allegations were problematic. The significant, protracted public debate that had been stirred by both the nature and quantity of these allegations revealed much about how far we have come and what remains to be achieved in raising awareness and understanding of many issues relating to sexual violence, particularly against women, in our society.

This report details and evaluates some aspects of the print media's response to the spate of allegations and situates it within the broader context of popular conceptions and representations of sexual assault. The coverage of the allegations against footballers illustrates some of the ways in which media reporting contributes to and perpetuates narratives of sexual assault that dominate popular understanding of the issues and parties involved from courtrooms to internet chat-rooms.

The media's treatment of these allegations also raises a set of issues and problems unique to the AFL and NRL context. There is much room for improvement in the way in which players; clubs, administrative officials and journalists conduct themselves in response to allegations of this nature. Accordingly, this report will outline some proposals for how the media, clubs and other concerned parties may more conscientiously respond when allegations of this nature are made.

Methodology

This report is based on an analysis of articles appearing in *The Age*, *The Australian*, *The Daily Telegraph*, *The Herald Sun*, and *The Sydney Morning Herald* newspapers from the 22nd February 2004 until the end of October 2004. The excerpts included below were selected from over one thousand articles dealing with many different angles on the issues raised by the series of allegations of sexual assault against footballers, and were selected on the basis of their relevance to the way sexual assault, particularly in the football context, is framed and represented within the print

¹ The Age, 25.02.04, J Halloran and J Magnay.

² 11.03.04 Sheena MacLean: Dogged by the press pack. *The Australian*, Features p.25.

media. This report attempts to situate the media's treatment of the allegations within the broader social and cultural context in which sexual assault is perceived understood within Australian society.

The excerpts reproduced below are representative of prevailing or particular tendencies in print media coverage of the issue, and highlight in condensed form the salient aspects of the relevant article. However, they provide neither a quantitative nor statistically comprehensive basis for the content of this report. This report is not intended to numerically catalogue particular trends, but rather canvass the assumptions that underpin reporting of sexual assault in this context and its connection to broader social attitudes held in the wider community.

Complementing the information obtained from the newspaper articles, interviews with Catharine Lumby (University of Sydney), Melanie Heenan (Australian institute of Family Studies), Phil Cleary (author of *Just Another Little Murder*, Allans and Unwin), and Vanessa Swan (Yarrow Place Rape and Sexual Assault Service, South Australia) and Kath Haines (founding member of Football Fans Against Sexual Assault) also provided a valuable contribution to this report.

Sexual Offences: The Broader Context

- Women accounted for 83% of victims in recorded sexual assaults in 1999 in Victoria.³
- An estimated 98.4% of perpetrators of sexual assault against women are men.⁴
- In 1996 15.5% of women aged 18 years or over had been sexually assaulted since they were 15.
- 1.5% of women aged 18 years and over had been sexually assaulted in the last 12 months.
- In 1996, just 10% of women who were sexually assaulted reported the last incident to police.
- Of the 10% of incidences reported, just 22% resulted in the perpetrator being charged by police.
- Of those charged by police, only 25% were ultimately convicted of rape. This translates to a figure of just 7% of alleged offenders against whom a report of rape has been recorded being ultimately convicted of rape.
- The stereotypical sexual assault, where a victim is assaulted and physically injured by a stranger in a remote location is in fact relatively rare. The majority of victims/survivors are assaulted by someone they know, receive no physical injuries and are assaulted in their home.
- In 1996, only 11% of women who were sexually assaulted were assaulted by a stranger. 28% were assaulted by a previous or current partner and 61% were assaulted by someone else they knew.

Source: VLRC (2001) Sexual Offences: Criminal Law and Procedure Discussion Paper, p. 19-26

Sexual Assault: A Popular Mythology

Historically our popular conceptions of sexual assault have functioned to deny and discount women's stories of rape. The famous legal maxim that rape is a claim that is 'easy to be made... and harder to be defended by the accused tho' never so innocent'⁵ embodies the harmful and pervasive myth that women maliciously concoct stories of rape. This prejudicial axiom was recited as a warning to jurors in myriad cases throughout the 19th and 20th centuries, but its continued currency is demonstrated by its reiteration in the current edition of L Waller and C R Williams textbook on criminal law taught at leading Australian universities.

This deep-seated prejudice forms part of a complex and until recently almost hegemonic mythology surrounding rape and its victims. Dominant, discriminatory expectations of women's behaviour, particularly in a sexual context, have functioned to divide women who say they have been raped into generic categories based on whether or not their character and behaviour, both in the past and on the occasion in question, conforms to those expectations. Prostitutes are one 'class' of women who

³ In 2003 they accounted for 82% according to the ABS Recorded Crime Report. 07.08.04 Richard Kerbaj: Inner Demons. *The Australian*, Features, p.30.

⁴ ABS, Women's Safety Survey 1996, Table 3.7.

⁵ Sir M Hale, *Hale's Pleas to the Crown* (Vol.1, 1736) 635-6. See also Waller and Williams, *Criminal Law: Text and Cases* (2001, 9th edition), p.92.

until very recently were seen as incapable of being raped in the eyes of the law and society at large. The deeply entrenched practice of enquiring into a woman's sexual history and even her clothing is symptomatic of the view that women precipitate rape by dressing or behaving in a 'provocative' manner. This view is allied to the conception of male sexuality that determines that once roused, male sexual desire cannot necessarily be suppressed, relieving men of agency, responsibility and blame for rape.

These culturally prescribed norms of behaviour have given rise to a misleading and inaccurate paradigm of rape. The archetypal rape scenario involves a woman set upon by a stranger in a remote location and suffering terrible injuries as a result.⁶ However, this scenario is in fact relatively rare: the vast majority of rapes occur under precisely those circumstances which we are least likely to recognise as a 'real' rape. Where women have had a prior relationship with the accused, whether that relationship be social or sexual, or if the woman has engaged in any kind of sexual contact with him in the past or on the occasion in question, we have great difficulty in recognising her experience of rape, as rape.⁷ And although alcohol is a factor in many rapes, its consumption by either party is regularly regarded as a mitigating circumstance.

Unfortunately, and despite important and encouraging progress in the last 30 years, harmful and offensive axioms continue to be afforded substantial currency in contemporary debates on rape and sexual assault. The broad-ranging discussion stimulated by the spate of allegations levelled at football players in the last year was evidence that the notions that women 'ask for' or 'deserve' to be raped, or have ulterior motivations for making allegations of rape, have been discredited but have not been eliminated from popular understanding of rape. Although it was rarely explicit in media commentary, the notion that women fabricate allegations of rape as an alibi; to cover up for infidelity or feelings of guilt and regret was implicit in many reports discrediting the women's stories.

The effect of these gendered stereotypes is to invalidate women's experience and stories of rape, denying victims/survivors the dignity of having their story believed; a step that rape crisis workers say is vital to recovery.⁸ They also operate in courtrooms as a particularly effective and deliberate defence strategy to discredit the victim/survivor in the eyes of the judge and jury. However, the deployment of rape myths and prejudices in the media is altogether subtler, and undoubtedly unconscious in many cases. So embedded are popular rape fictions that journalists often unwittingly draw upon and perpetuate their harmful logic in the way they construct and edit a story, select quotes and privilege particular voices at the expense of others.

In reporting allegations of sexual assault, media concern for the presumption of the innocence of the accused should not come at the expense of the victims' dignity and right to have their claim treated with the same weight as any denial by the accused. In the context where an accused party has a public persona or celebrity

⁶ See Susan Estrich, *Real Rape* (Massachusetts: Harvard University Press, 1987).

⁷ See Susan Estrich, *Real Rape*.

⁸ 30.05.04 Liz Porter: He said, she said. *The Age*, Agenda p.4.

status, the danger that one voice will be lost is exacerbated. It is in this context that the series of allegations against footballers came to light earlier this year.⁹

Phase 1: The Story in Coffs Harbour Breaks

The Allegation

Police report: 'She disclosed to a cleaner that at least six of them sexually assaulted her, without consent, by anal, oral and vaginal penetration... The victim was extremely distraught... There was medical evidence to support the victim's claims.'

25.02.04 Neil Breen: Hotel sexual assault claim has league in a state of shock. The Australian, Sport p.20

The victim... is still so distraught she has yet to fully complete her statement.

25.02.04 Jessica Halloran and Jacqueline Magnay: Bulldogs party ended in woman's screams by pool. The Sydney Morning Herald, front page.

A doctor treated her for grazing, bruising and trauma...She was allegedly taken to the pool by up to eight Bulldogs players, pulled in and out of the pool and repeatedly assaulted by at least six players.

26.02.04 Anthony Peterson: Bulldogs DNA tests – Woman alleges attack by six players – Canterbury Bankstown Rape Scandal. The Daily telegraph, local p.1.

The Defence

The manager said... 'According to (my client) the young woman came up to the hotel before the night in question and had sex with a couple of players. The final time they were treating her like they did before and she didn't like it.'

26.02.04 Peter Frilingos: Our players are innocent – sex scandal: special report. The Daily Telegraph. Local p.1.

The players vehemently deny the assault allegations.

01.03.04 James Hooper: Bulldogs on tight leash in party town – BULLDOGS SCANDAL. The Daily Telegraph, local p.4.

In the initial stages after the Coffs Harbour story exploded, the media began to dissect the 'facts' and merits of the case in graphic detail. The nature of this allegation – a gang rape perpetrated by members of a working class Rugby League team – sparked immediate and widespread outrage.

However, the sensationalist and graphic nature of the reports, at times taking on an almost pornographic quality,¹⁰ introduced an element of voyeurism, and opened a space in which a violent and degrading crime was framed as a salacious spectacle for public consumption: 'all the moralising was needed as a smokescreen to talk about

⁹ Melanie Heenan, Interview 29.10.04

¹⁰ Catharine Lumby, Interview 06.10.04.

what happened in detail. The media seems to love the blend of what they saw as sex and sport, but it's not about sex, it's about violence.'¹¹

Is there not a whiff of voyeurism about the avid interest of the media and public in (sport and sex scandals)? Alleged sexual assault is rightly deplored, but the suggestion of a little debauchery ... may titillate rather than outrage... There are difficult chicken and egg issues here about media coverage and public interest but the media has much to gain from any sports story, good, bad or ugly.

09.03.04 David Rowe: A banquet for the media. The Australian, Features p.13.

This represented a highly problematic framing of sexual violence. The woman in Coffs Harbour was claiming to have been the victim of a violent crime, and the sensationalist and at times voyeuristic coverage was a highly inappropriate way to present her allegations. In doing so many reports not only trivialised and obscured the trauma suffered by the woman in question, and by extension that of all rape victims, but invited readers to derive voyeuristic pleasure from rape via the elements of 'sport and sex' bound up in the Coffs allegations.

Initial Responses

Despite the outpouring of almost universal outrage over her allegations, sharp divisions emerged over whether or not the woman was a legitimate rape victim. The Bulldogs' claim that she had engaged in consensual group sex with the players concerned was central to the desire to scrutinize and ascertain the 'innocence' of the woman concerned; which quickly turned into one of the primary issues at stake. This propensity to question the innocence of rape victims, which is also undertaken with vehemence by defence lawyers in rape trials, betrays an adherence to the persistent belief that only 'good' women may make credible accusations of rape.

Many reports were predicated on the view that the woman's behaviour and moral character were relevant to the veracity of her claim to have been sexually assaulted. Although the existence of a prior relationship with the accused men, and the presence of alcohol are 'absolutely common circumstantial and situational factors' in rape,¹² many reports explicitly or implicitly regarded these circumstances as undermining both her credibility and her claim. That she had consented to sex with the players previously and had been drinking and socialising with them on the night in question were ultimately very damaging to the way she was represented by the media, severely diminishing the possibility for her to be recognised as a real rape victim.

While most fans were measured in their support (for the Bulldogs), others directed their anger at the 20-year-old woman... 'I am sure the girl wasn't totally innocent, maybe she was flirting.'... 'I know 'no' means 'no' but sometimes in a drunken state that may mean maybe and when both are in a drunken state it just happens.'

26.02.04 Lisa Miller: It's talk of the town – BULLDOS SEX SCANDAL. The Daily Telegraph, local p.5.

¹¹ Catharine Lumby, Interview 06.10.04. A particularly relevant article reporting on the Hawthorn Football Club allegation by a Californian woman in Hawaii is 21.06.04 Padraic Murphy: I was drugged, says AFL 'gang rape victim', *The Herald Sun local*, p.5, who described the woman 'bruised, drugged and smeared with seamen' staggering out of the hotel room.

¹² Melanie Heenan, Interview 29.10.04

Woman at the Plantation hotel: 'The girls were filthy that night, throwing themselves at the Bulldogs... There were a lot of sluts in there that night.'

29.02.04 Marnie O'Neill: Sex Charges 'soon'; Strong evidence of rugby assault. *The Herald Sun.*

Bulldogs players claimed that the woman had been encouraging group sex with the players and boasting about it...they claim that the woman had consensual sex with eight Bulldogs players on the previous Wednesday and that she had encouraged further sexual encounters on the Sunday morning after the trial game... One player at the truth meeting admitted having sex with the woman on Sunday morning, but others claimed they had rejected her alleged invitations.

01.03.04 Jacqueline Magnay and Brad Walter: Group sex a way of life: disgusted league chief to widen Bulldogs enquiry. *The Sydney Morning Herald, front page.*

Disputing the Mythology

Despite the tendency to enquire into the 'innocence' of the woman concerned, there was nonetheless significant and vocal support for the notion that women who allege rape should have neither their behaviour nor their character scrutinized in the name of determining the credibility of their allegation. There were also reports giving further recognition to the difficult and often humiliating process facing women who allege rape. Although stereotypes prejudicial to the woman's claim abounded during this phase where attention remained largely focused on the merits of her claims, there was a real sense that victims should be neither scrutinised nor blamed when they make an allegation of sexual assault. Some reports expressed a clear concern for the trauma suffered by rape victims, and sound understanding that the central issue should be whether or not she consented to sex with the players on the occasion in question.

'She must have been asking for it' was the theme of a number of contributors to the football website...the people who sought pre-emptively yesterday to shift the blame away from the alleged perpetrators should be deeply ashamed of themselves.

26.02.04 No author named: A vile assertion. *The Daily Telegraph, features p.28.*

'Not many of us can even begin to understand the emotions of hurt, anger, betrayal and fear you must be experiencing right now or how awful the past few days have been for you. And it would be a deception to say that it is going to get easier for you, it's not... You have taken the first very difficult step of reporting the case to police and enduring the humiliating and painful process of recalling the night's events in all their excruciating detail to strangers and undergoing medial examinations... You should take heart that many people in the community will support you. It will take every bit of strength and courage mustered from deep inside you to see you through... No woman or man deserves the indignity of rape.' – Cindy.

26.02.04 Cindy Wockner: Bulldogs Sex Scandal. *The Daily Telegraph, local p.5.*

Managers of four players took their boys' claims of innocence to the front page of Sydney's Daily telegraph. In the process, they smeared the unnamed victim's reputation.

28.02.04 Emma-Kate Symons: Deadly mix of ego, testosterone. *The Australian, sport p.52.*

Today we know we must never blame the victims. We understand that no one asks to be raped... We are still struggling to understand why some men think it's OK to abuse, harass or assault women.

12.03.04 Catharine Lumby: Why group sex is not the main issue here. The Age, Opinion p.13.

Definition and Displacement

Kerry Carrington (criminologist): 'When the victim is seen as legitimate and her attackers are seen as outsiders, not heroes or cultural icons, the public is supportive.'

28.02.04 Emma-Kate Symons: Deadly mix of ego, testosterone. The Australian, sport p.52.

A senior academic who says she was gang-raped by a Sydney University football team as a student said... 'Middle-class Australia can take no comfort in the assumption that gang rape was the preserve of migrant or working class culture.'

03.03.04 N.A.: 'Degrading' culture knows no boundaries. The Australian local p.3.

Gang rapes don't just happen in working class cultures.

12.03.04 Catharine Lumby: Why group sex is not the main issue here. The Age Opinion p.13

In a process by which rape is discursively excluded from the realm of 'normal' society, the media coverage of the Coffs Harbour allegations treated gang rape as if it were a rare and spectacular event. In fact gang rape is relatively common: according to Karen Willis from the NSW Rape Crisis Centre, they receive 1.5 calls per week at that particular centre alone from women who have been gang raped.¹³ By treating gang rape as a marginal, if abhorrent, phenomenon, the media manifested a desire to suppress and expel rape from society's self-image. This discursive process enabled gang rape to be condemned by the 'community', but at the same time exclude from its ambit.¹⁴

This process is also relevant to the construction and recognition of 'real' offenders and 'real' victims. Even in those reports that proceeded on the basis that the woman's claims were not to be refuted by reference to her sexual history or social behaviour participated in this process of displacement by describing the behaviour of the players as 'animalistic' and thus unguided by the mores and norms delimiting normal society. On the flip-side of references to the 'bestial' or 'animalistic' nature of the perpetrators, but part of the same tendency are suggestions or implications that the woman was a 'slut': they function in the same way to represent rape as an aberration perpetrated on and/or by a lesser form of human being, and therefore outside the boundaries of the community's self image.

In reports focussing on the behaviour of the accused players, the working-class background of the club provided an avenue through which the perpetrators could be recognised as 'real' offenders by virtue of this 'outsider' status. As in the coverage of the Sydney gang rapes perpetrated by Lebanese youths, where the offenders'

¹³ 18.03.04 Richard Yallop: Tackling the bloke code. *The Australian*, features p.11.

¹⁴ See Binder, Lisa. With More than Admiration He Admired: Image of Beauty and Defilement in Narratives of Rape (1995) 18 *Harvard Women's Law Journal*.

membership of an ethnic minority was deemed by the media to be a central and defining factor, the 'outsider' status of the alleged perpetrators was relevant to the willingness of some journalists to validate the experiences of the victims as rape, whilst expelling the perpetrators from the imagined borders that demarcate ordinary, middle Australia.¹⁵

Where the alleged perpetrators are sporting 'heroes', whom we uphold as role models and identify with and define ourselves in relation to, the odds are stacked against those who allege rape against them. Unlike Rugby League AFL clubs, players and supporters are not identified along class lines, thus it was much harder to label the alleged offenders as outsiders, and in doing so recognise them as 'real' perpetrators. Although there were many factors influencing the reluctance of the media to validate the victims' claims in cases against AFL players, it bears an interesting comparison in the treatment of these distinct sets of allegations.

Morality and Consent

Particularly upsetting to the sponsors and the NRL were the weekend revelations that an unnamed Bulldogs player that 'gang-bangs' were part of rugby league culture.
02.03.04 Drew Warne-Smith: Sponsors find Bulldogs on the nose – DOGS IN CRISIS. The Australian, Sport p.18.

Catharine Lumby believes sport should not try to stamp out group sex, but rather focus on players' attitudes towards women... Whether players were involved in group sex was less important than if sex was consensual and women were being treated with respect, Lumby said.
10.03.04 Drew Warne-Smith: Group sex 'not the issue'. The Australian, local p.5.

Most disturbing have been the leaks from within the rugby league fraternity that group sex is an accepted part of the culture.
08.03.04 No Author named: When will they grasp that this is not a joke? The Australian, Features, p.8

Lumby's value-free statements have been seen by some as inappropriate and a cop-out.
10.03.04 Emma-Kate Symons: More than two to tango. The Australian, features, p.13.

I find it very difficult to see how anyone involved in group sex can have much respect for anyone else – male or female. Yet in the Lumby world we can rely on female consent as the central factor in any variation of sexual congress... Consent, what is that?
12.03.04 Angela Shanahan: memo to the gender police: sex is not a morality-free zone. The Age, Opinion p.13.

Demetriou nailed it: 'I don't think it's a cultural problem in football, I think its part of a problem in society and football is just a small part' ... There's sex – and it's cold, emotionless sex --- everywhere we look these days.
22.03.04 Sally Morrell: Fear for our girls. The Herald Sun, Opinion p.19.

¹⁵ See for example 28.02.04 Emma-Kate Symons: Deadly mix of ego, testosterone. *The Australian, Sport p.52.*

This isn't a sex scandal... A woman who alleges sexual assault is claiming to have been the victim of criminal violence.

23.03.04 Phil Cleary: Footy's subculture of misogyny. The Age, Opinion p.11.

Morality

The near-ubiquitous use of the term 'sex-scandal' to describe the allegations against the Bulldogs (and later claims against other footballers) belied the media's transformation of what was fundamentally a case of sexual assault into one of 'sex gone wrong'. Feminists and academics have long argued that rape is fundamentally a crime of power and violence;¹⁶ however the media's treatment of the allegations instead manifested a concern for the morality of the sexual behaviour in question, eliding the elements of power and violence by substituting them with immoral sex.

The sanctimonious concern for a perceived debasement of moral standards by both the alleged victim and players involved is also symptomatic of the desire to exclude rape from the ambit of 'normal' society. The emphasis on the professed dangers associated with group sex marginalised and sanitised rape as the manifestation of a danger professed to be inherent to group sexual activity.

Some might say adult males should be responsible citizens like everybody else, but it's not as simple as that... to be fair to the players, there have been – and no doubt still are – plenty of young women who do their best to support that (groupie) status by sometimes placing themselves at risk by consenting to group sex.

28.04.04 Peter Frilingos: Wake-up call that changes everything. The Daily Telegraph, Features p.26.

The moral outcry was also further evidence of the tenacity of the notion that there are 'good' and 'bad' women: by framing rape as a matter of sexual morality, it was implied that raping a woman who has engaged in group sex is somehow less serious than raping a 'chaste' or 'innocent' woman. The woman from Coffs Harbour, and others who were labelled 'groupies' were often said to have 'placed themselves at risk' through their sexual choices, thereby transposing responsibility onto women to avoid being raped. In doing so these media commentators obfuscated the agency, responsibility and blame that ought to have lain with the supposed perpetrators, perpetuating the misguided mythology that women precipitate rape by dressing or behaving 'provocatively'. Journalists reproduced this unhelpful axiom unreflectively and without tendering any evidence to suggest that it is in fact possible for women to 'avoid' being raped.

Consent

The discussion of the morality of group sex revealed a lack of meaningful understanding amongst the media of the concept of consent. Commentators such as Angela Shanahan gave voice to the notion that consent was redundant and irrelevant

¹⁶ See for example Susan Brownmiller, *Against our will: men, women and rape* (London: Secker and Warbury, 1975) and Catherine Mackinnon, *Feminism unmodified: discourses on law and life* (Massachusetts, Harvard university Press, 1987).

in the context of group sex. In doing so these writers not only undermined a woman's right to say yes, but also by extension her right to say no.¹⁷

Consent is the legal touchstone distinguishing sex from rape. The concept is intended to uphold the right and the will of the individual to choose when and with whom they wish to engage in sexual activity. Victorian law defines consent as 'free agreement', which cannot be reached under circumstances of duress, coercion or pressure.¹⁸ By denying the salience of consent on the basis of a subjective moral blueprint many media commentators diminished or refused the possibility for women to choose to engage in a range of sexual activity. Although there are very real questions as to whether a young woman such as the alleged victim in Coffs Harbour could give her informed consent in the circumstances of that case (where alcohol was involved and the power differential between the players and the woman was so great), these media commentators preferred to dispense with the concept altogether. In so doing they not only denied the possibility for women to choose to participate in sexual activity that does not conform to prescribed norms, but thereby diminished the capacity for women to choose to withhold their consent.

The AFL Allegations

St Kilda: Milne and Montagna

The Allegation

Police sources have said to the Australian that the woman at the centre of the allegation had consensual sex with one of the players... The woman then claimed the players swapped partners but that she did not realise until later...

The distraught woman is understood to have told her father, who drove her to the Sexual Offences Unit at Moorabbin police station.

18.03.04 Padraic Murphy: Players train on amid sex crisis. The Australian, Local p.3.

The Defence

Waldron: 'We understand that one of the two women has previously met one and possibly both players... This woman and her friend contacted the players and arranged to meet them... One of the women then drive the group of four to a two-storey house.'

17.03.04 Michael Warner and Christine Caulfield: SAINTS FIGHT SEX CLAIMS. The Herald Sun, news p.1¹⁹

Waldron said 'this woman and her friend contacted the players on Sunday night and arranged to meet them... The women arrived in their own cars, met them and drove

¹⁷ Catharine Lumby, Interview 06.10.04.

¹⁸ See s.36-s.37 of the *Crimes Act 1958* (Vic), available from www.austlii.edu.au

¹⁹ See also 17.03.04 Brad Clifton: NOT AGAIN – AFL players deny sexual assault – NEW SEX ALLEGATIONS, *The Daily Telegraph*, Local p.1, and 18.03.04 Mike Hedge: IT'S A RAPE CASE – Police reveal nature of the claims against AFL players – NEW SEX ALLEGATIONS, *The Australian*, Local p.1, who also quoted the relevant passage.

the players to one of the players' homes... On Monday they made allegations which are vehemently denied by both players.'

17.03.04 Greg Denham: New claims shift rape spotlight to AFL. The Australian, local p.1.

'The Saints' two young-guns and two unnamed women are believed to have engaged in consensual sex at the home a day after St Kilda's Wizard Cup triumph.'

05.04.04 Michael Warner: 'Saints Questioned Again'. The Herald Sun, News p.2

The treatment of the Saints allegations was overwhelmingly dominated by the voices of Coach Grant Thomas and club CEO Brian Waldron. The St Kilda administration had learned from the Bulldogs' inept handling of the Coffs allegations and sought to pre-emptively control what was written about the incident. Whereas Bulldogs players and officials provided plenty of ammunition for those arguing the allegations were evidence of a problematic culture within the NRL by way of inappropriate comments and conduct in the aftermath of the allegation, the Saints exercised far greater discipline and control of who was allowed to speak and what they said. Unlike the Bulldogs, who adopted a siege mentality, the Saints immediately named the players involved and declared their unequivocal belief in and support for the players.

Thomas: 'I told them: I will ask you only once and whatever you tell me I will believe you, but do not make a mistake... I was very firm on that and their stories have not changed one iota.'

18.03.04 Mark Robinson: Saints sex strife; Let's stick together; Thomas optimistic. The Herald Sun, Sport p.72.

As a result, the allegation was aired in highly selective detail in keeping with statements made by club officials. These statements emphasised that at least one of the women had met the players previously, and that it was the women who contacted the players and drove them to Leigh Montagna's house on the night in question. These details were accompanied by repeated 'vehement' and 'emphatic' denials, and affirmations that the players had the full support of the Saints' administration, which were also amenable included in the vast majority of reports. Virtually every article reporting on the details of the allegation against Milne and Montagna relied on these statements despite their potentially prejudicial nature and without providing any information from alternative sources.

Journalists enabled the Saints' administration to take almost full control of the imagery and angles on the story, and attention was very quickly diverted away from the allegation itself and the actual circumstances of the case and instead focused on the effect of the allegation on the players' psychological well-being, as well as the effect of the allegation on the club and the game. Whereas the trauma suffered by the players was well documented, concern for the welfare of the woman was rare. In the overwhelming majority of reports she was not recognised in any real sense as being a 'real' rape victim: she remained nameless, voiceless and rendered all but invisible.

Significantly the details (the Saints) did reveal... stressed that the women had contacted the players had driven them to Montagna's house. The decision to release this detail did not impress the AFL.

18.03.04 Caroline Wilson: St Kilda tries to do its best in the worst of situations. The Age, Front page.

Where, in the deluge of reports of fans rallying to the poor beleaguered Saints, and the breathless accounts of almost hourly counselling for the two men who are the subject of the allegations, are any sincere or detailed expressions of concern for the alleged victims?

While the claims remained mere allegations, they should never have been aired in selective detail on newspaper front pages, flanked by stories defending the accused men.

28.03.04 Liz Porter: Sex discussions feed footy's whore-Madonna complex. *The Age, News p.4.*

'Emphatic' Denials

Waldron said (they) vehemently denied the serious sexual misconduct allegations...

17.03.04 Michael Warner and Christine Caulfield: SAINTS FIGHT SEX CLAIMS. *The Herald Sun, news p.1*

Both players strongly deny any wrongdoing.

21.03.04 Carly Crawford: 'Why I have Never Doubted Stephen'. *The Herald Sun, news p.7*

Milne and Montagna have emphatically denied any wrongdoing.

05.04.04 Michael Warner: 'Saints Questioned Again'. *The Herald Sun, news p.2*

Brain Waldron said 'both players have...issued statements emphatically denying the allegations... On Monday (the women) made allegations which are vehemently denied by both players.'

17.03.04 Greg Denham: New claims shift rape spotlight to AFL. *The Australian, local p.1.*

Both steadfastly denied the claims.

07.05.04 Chip Le Grand: St Kilda players escape sex charges. *The Australian, local p.3.*

Waldron said the players 'vehemently denied the allegations.'

17.03.04 Mike Sheehan: When god times turn to bad, winners are losers. *The Daily Telegraph, features p.29.*

Both players have emphatically denied the allegations... The players have made statements to police 'emphatically denying the allegations', Mr Waldron said.

18.03.04 Mike Hedge: IT'S A RAPE CASE – Police reveal nature of the claims against AFL players – NEW SEX ALLEGATIONS. *The Daily Telegraph, Local p.1.*

Their lawyers both emphatically denied their clients had done anything wrong.

28.04.04 Karen Hart: Saints players face wait of two weeks over claims. *The Daily Telegraph, local p.5.*

Defteros stressed that Milne vigorously denied any wrongdoing.

20.03.04 Emma Quayle: Milne looks for quick resolution. *The Age, sport p.2.*

The Effect on the Players

Both players are extremely distressed and are expected to sit out club commitments.

17.03.04 Michael Warner and Christine Caulfield: SAINTS FIGHT SEX CLAIMS. *The Herald Sun, news p.1*

(Waldron) said both players were 'extremely disappointed' and 'extremely distressed' by the claims.

17.03.04 Brad Clifton: NOT AGAIN – AFL players deny sexual assault – NEW SEX ALLEGATIONS. The Australian, Local p.1.

Waldron: 'Both players are deeply distressed. As you would expect.'

17.03.04 Mike Sheehan: When god times turn to bad, winners are losers. The Daily Telegraph, features p.29.

Both were said to be distressed... Grant Thomas said... 'We felt that it was important that they remain in the midst of their support system... As you'd expect they're obviously distressed about the whole thing and having spent most of the last 24 hours with them it's quite obvious that they've gone through a hell of a time.'

18.03.04 Mike Hedge: IT'S A RAPE CASE – Police reveal nature of the claims against AFL players – NEW SEX ALLEGATIONS. The Daily Telegraph, Local p.1.²⁰

Thomas: 'It's been a very, very tough 24 hours for the whole club and everyone concerned, but two of our boys are doing it extremely tough...'

18.03.04 Mark Stevens and Mark Robinson: Let's Stick together: fans rally as club unites. The Herald Sun, sport p.72.

Thomas: 'As you would expect they're obviously very distressed about the whole thing... It's obvious they have gone through a hell of a hard time.'

Fans: 'I feel sorry for the players and the club. It's very hard on them'... 'It's such a shame when the club was on such a high. The mat has been pulled out from under their feet.'

18.03.04 Michael Warner: 'Saints close ranks after sex claims; NOW IT'S A RAPE PROBE.' The Herald Sun, news p.1.

The past 48 hours have become a living nightmare for players and officials...A reputation is hard to earn and difficult to discard... Anyone representing the Saints today could be rightly offended by a slur against the club.

18.03.04 Tim Watson: AFL players and the trouble zone. The Age, Sport p.16.

He's doing it pretty tough right now... how would anybody cope with something like this?' (Melissa Rudding, former partner). Despite Milne's brave public face, he was hurting, she said.

21.03.04 Carly Crawford: 'Why I have Never Doubted Stephen'. The Herald Sun, news p.7

'They're continually assessed.' Thomas said yesterday. 'It's just to see how they're coping with everything. We've got professional people... in daily contact – and in parts hourly contact – with the guys.'

25.03.04 Andrew Ramsey: Close watch on Saints. The Australian, Sport p.44.

No stone had been left unturned to make sure besieged St Kilda players Stephen Milne and Leigh Montagna would be in the right frame of mind to play football, their team mate Max Hughton said yesterday. Milne... and Montagna have been psychologically tested by the Saints and given the all clear to play.

²⁰ See also 18.03.04 Rohan Connolly: Fans rally to Saints. *The Age, Sport p.16*, who also quoted this passage from Thomas.

27.03.04 Michael Davis: Scandal on backburner as St Kilda close ranks. The Australian, Sport p.48.

Both players remain under constant supervision by club psychologists.

05.04.04 Michael Warner: 'Saints Questioned Again'. The Herald Sun, news p.2

'It's been a very traumatic and stressful time' Milne said yesterday... Milne said he was relieved his ordeal was over.

08.05.04 Michael Warner: AFL stars relieved of rape charges. The Daily Telegraph, Local p.2.

The Presumption of Innocence

Paralleling the anxiety over the impact of the allegations on the welfare of the accused players, and in conjunction with the 'vehement' denials made on their behalf, many reports reiterated the concern expressed by St Kilda officials for the privacy and reputation of the players. Echoing the misleading legal maxim that an accusation of rape is easy to make but hard to be defended by the accused, many reports stressed the need to ensure that the players were afforded the presumption of innocence. Like doctors, priests and other professionals, footballers come under a degree of scrutiny by virtue of their public standing that simply would not be applied to the vast majority of men accused of sexual assault. However, as the AFL cases demonstrated, this public standing also affords players and those who defend them a greater ability to influence what is said about the allegation.

The degree of anxiety over potential damage to the players' reputations and the space it was given in the media seemed disproportionate to the potential effect of the allegations in reality. In the context where misconceptions about rape and women who allege it continue to dominate, the substantial concern in the media for the players' reputations served to implicitly undermine the credibility of the woman concerned and the veracity of her claims. These reports showed no equivalent concern for the potential harm to the reputation of the woman claiming to have been raped as a result of a failure to treat her allegation with the same weight as the denials of the accused. In cases of rape, unlike crimes such as murder or theft, the flipside to the presumed innocence of the accused is the implication that the woman making the allegation is lying. The media's treatment of the allegations against AFL players ultimately permitted the benefit of the presumption of the innocence of the players to come at the expense of the credibility of the women concerned.

Thomas: 'I've got no doubt that it will galvanise us and make us even stronger and closer and better'.

18.03.04 Michael Warner: 'Saints close ranks after sex claims; NOW IT'S A RAPE PROBE.' The Herald Sun, News p.1²¹

Grant Thomas has vowed the Saints will emerge a stronger and better club in the aftermath of the crisis.

18.03.04 Rohan Connolly: Fans rally to Saints. The Age, Sport p.16.

²¹ See also 18.03.04 Padraic Murphy: Players train on amid sex crisis. *The Australian*, Local p.3, who also quoted the relevant passage.

700 fans have signed on since the revelation on Tuesday. Buttress: 'we've had a record daily membership intake... We will stay tight, we will stay strong and we will continue to grow... We will conquer.'

18.03.04 Mark Stevens and Mark Robinson: Let's stick together: fans rally as club unites. The Herald Sun, Sport p.72.

Many reports picked up on the theme prompted by St Kilda officials that the allegations of rape could be used as a means to promote team unity and strength, implying that the woman's claim amounted to a slur on the players, and even the club. Articles reporting a surge in Saints membership and quoting optimistic St Kilda officials and fans in their intention to rally around Milne and Montagna inappropriately reproduced this sentiment, conveying the misleading sense that the players' reputations, rather than a woman's belief that she was raped, were at issue.

O'Laughlin, Heuskes and Burgoyne

The Allegation

The woman alleged that she had been drinking at a bar with the players when she was passed a drink she had not asked for. She later began to feel groggy. One of the players offered to take her for a walk as she was feeling unwell. She agreed, but says that she 'did not have a clear head...to me it was just a walk. It could have been a walk to McDonalds'. She alleges that two other players followed, and the three players then raped her in nearby bushland and left her there alone, partially naked and semi-conscious.²²

Although charges were initially laid against Heuskes and Burgoyne, DPP Paul Rofe made the decision not to proceed with criminal charges as there was 'no reasonable prospect of a conviction'; however the woman pursued a civil claim against the three players which was settled for a reported \$200,000, and the woman and players signed a confidentiality agreement.

Most of the media attention focused on Sydney player Michael O'Laughlin. Once the allegation and settlement were made public, the Sydney Swans, on behalf of Michael O'Laughlin, followed the same procedure used so successfully by the Saints to ensure that there was no opportunity for speculation over what might have occurred, declaring O'Laughlin's innocence and the Swans' support for him, and moving discussions straight to the impact of the media attention on O'Laughlin, and refutation of the woman's story.

The Swans issues a statement... 'The player has steadfastly denied any wrongdoing from the beginning and continues to do so.'

20.03.04 Peter Ker and Penelope Debelle: Star Swan in payment to woman. The Sydney Morning Herald, News and Features p.3.

...Yesterday O'Laughlin continued to deny that he acted unlawfully. 'I was not interviewed let alone charged with regards to the alleged incident.'

²² See 19.03.03 Russell Robertson, *The Herald Sun*. Details of the allegation are also available from the Football Fans Against Sexual Assault website at <http://www.ffasa.org/upload/ALLEGATION7.doc>, accessed 27.10.04.

'It is obviously putting a bit of stress on him, but he's handling it well at the moment... I guess when you've done nothing wrong it's a bit easier.' Assistant coach Peter Jones.

21.03.04 Peter Ker with Andrew Webster: O'Laughlin admits hush money deal. *The Age*, Front page.

A statement released by the Swans read in part: 'Michael has strenuously denied any wrongdoing from the beginning and continues to do so.'

22.03.04 Greg Denham: O'Laughlin puts drama, injury behind him. *The Australian*, Sport p.18.

Phase 2: Coverage Reaches Saturation Point

In the wake of the Coffs Harbour allegation against the Bulldogs, it was revealed that another woman claimed to have been raped by a Bulldogs player on a pre-season trip the previous year while another looked on and masturbated.

The woman had accompanied another player to the motel room and had consensual sex.

29.02.04 Sydney Morning Herald, Rugby rocked by fresh rape claims.

They had met earlier that evening at a local nightclub. She claims the player left the motel room, saying he was going to get a drink. A second player then replaced the consensual partner without her knowledge or consent

23.03.04 Cindy Wockner: Secret Victim breaks silence – 'It's time people knew the truth' – BULLDOGS SCANDAL EXCLUSIVE. *The Daily Telegraph*, local p.1.

Allegations against players from NRL club the Melbourne Storm, and Steven Milne and Leigh Montagna from AFL club St Kilda were also concurrently under investigation by police, and a number of past allegations that had been either unreported, dealt with by the clubs concerned, or investigated without charges being laid or successfully prosecuted, also came to light.²³ By this stage coverage of the Bulldogs' case had reached saturation point and many commentators and editorials alike began to shift the discussion away from the relative merits of the cases at hand and towards recognition of a wider problem concerning both sexual assault and attitudes towards and treatment of women in broader society. That there was a problem that needed to be urgently addressed became the point of departure for many articles printed at this time: once reporting moved beyond an enquiry into the merits of individual cases, attention shifted away from the women who had made the accusations, and refocused on the attitudes and behaviour of the alleged perpetrators.

The (Melbourne Storm) revelation has widened the sex scandal confronting the sport and called into question its attitude to women and sex... Events of the past week have shown how desperately attitudes need to change.

06.03.04 Mark Fuller with Dan Oakes: Stormy aftershock for league as secret revealed. *The Age*, news p.2.

Disturbingly, these allegations are starting to take on an unsurprising quality.

17.03.04 No author named: Tackling a problem. *The Daily Telegraph*, Features p.28.

²³ See Appendix 1 for a timeline and details of the other allegations against footballers aired in the media.

The persistent pattern of claims of sexual assaults of women by Bulldogs players is hard to ignore. This is the second year in a row.

But ask anyone closely associated with the Bulldogs – or indeed with the NRL – and you will receive a vehement denial the club or the code generally is plagued by a poisonous culture of contempt for women...

28.02.04 Emma-Kate Symons: Deadly mix of ego, testosterone. *The Australian, Sport* p.52.

“Never initiate sexual intercourse if the woman is intoxicated or passed out.” That sentence in the University of Colorado’s player handbook exactly highlights how much some sportsmen require the most basic standards on attitudes to women to be spelt out.

01.05.04 Roy Masters: Changing the culture of a club is a hard ask but it must start at the top. *The Sydney Morning Herald, Sport* p.75.

What we have heard in the last few weeks about rugby league... is it’s general atmosphere of disrespect for women, who are called buns and passed around between players like pieces of meat roasted.

11.03.04 Miranda Devine: The moral failure that must be tackled. *The Sydney Morning Herald, Opinion* p.15.

The Discussion of Sexual Assault

The quantity and nature of the allegations against footballers was widely perceived to indicate a problematic culture within both football codes with regards to their attitudes towards and treatment of women, and discussions began to centre on the need for prevention. In some cases there was recognition that the normalisation of demeaning attitudes towards, and the abuse of women was not restricted to male dominated sports but was in fact a broad social problem, however, discussion remained largely confined to the football context. The perception that a problem existed generated a secondary discussion of sexual assault, which was on the whole well informed and encouraging. This qualitative and in-depth debate differed fundamentally from reporting of the ‘facts’ of the allegations in that the range of stereotypes and assumptions that had characterised the media’s construction of the relevant ‘facts’ of the different cases was critiqued as part of a wide-ranging discussion of the myths and obstacles facing women who allege sexual assault. There were a number of feature-length articles disputing many of the prevailing prejudices that characterise popular understanding of sexual assault, and analysing the way these myths function to the detriment of women who allege rape throughout the legal process and in society in general.

Unlike reports focussing on the morality of group sex, consent was upheld as a fundamental and indispensable element in the discussion of sexual assault. Many articles, particularly in *The Age*, stressed that women have the right to say not at any time, and in any circumstances. The clear message was that consenting to sex with another person is irrelevant to whether or not a woman is consenting to the man in question. It was also acknowledged that a woman’s choice to socialise and fraternise with footballers did not in any way diminish that right, although most articles stopped

short of recognising this and other lifestyles involving casual sex as legitimate social choices that women can make.

Discrediting the Mythology of Rape

Kath Albury: 'There are a lot of girls who are football groupies and have consensual sex with footballers, but these women have a right to say: I don't want to have sex with you.'

06.03.04 Debra Jopson: Sex and the team player. The Age, Insight p.4.

In no other crime but rape is the victim required to prove her innocence... Attitudes towards rape have improved, but not altogether changed... Just because a woman had sex with your mate - or even all of your mates – it doesn't mean she wants to have sex with you. Sex without informed consent is rape.

12.03.04 Pamela Bone: How far have women come? The Age, Opinion p.13.

Donna freely admits she was attracted to the world of football and footballers, but she says that does not mean she wanted group sex or "tag team" sex. Faced by the classic footballers' defence that "she asked for it", and that she put herself at risk by going to the club frequented by footballers, she says "I didn't ask to be treated disrespectfully.'

18.03.04 Richard Yallop: Tackling the bloke code. The Australian, features p.11.

Watson unwittingly reinforced many of the prejudices that beset women who cry rape. Suddenly the alleged perpetrator has become the victim... A woman consenting is not a woman raped... In what subculture is it assumed that if a woman has sex with one man she has consented to sex with a different man on the same night? No accused man should have to cower or hide. But that shouldn't preclude us from debunking the myth that women who cry rape are chronic liars and schemers who've maliciously changed their mind after a sexual encounter.

23.03.04 Phil Cleary: Footy's subculture of misogyny. The Age, Opinion p.11.

The important distinction between sexual shenanigans and sexual crime is one that appears in danger of being lost...

Where is the talk of the risk that some players might pose to women? (Rather than risks faced by vulnerable players from predatory women)...

Society as a whole still needs to come to grips with women's right to choose to have casual sex without being pilloried for it.

28.03.04 Liz Porter: Sex discussions feed footy's whore-Madonna complex. The Age, News p.4.

Unlike concurrent reporting of the 'facts' of the allegations made against the St Kilda players where the alleged victim was all but absent from virtually all articles associated with that case, commentary on sexual assault generally was characterised by a genuine concern for and understanding of the trauma suffered by women who have been (or claim to have been) raped. Although charges were not necessarily laid or prosecutions successful in the cases of the victims quoted, they were treated very much as 'real' rape victims who ought to be afforded dignity and sympathy.

A significant and in-depth examination of the inadequacies of our legal system in dealing with claims of sexual assault ensued once the police announced their decision not to proceed with charges against any Bulldog player over the incident, however, legal barriers facing victims of sexual assault did receive some attention as part of the discussion of sexual assault generally. Some reports quoted victims whose stories undermined the popular myth that women who don't report sexual assault immediately are not genuine victims, and others discussed the influence of related rape myths on police responses, defence lawyer tactics and judicial discretion. It was emphasised that a decision to drop or not proceed with charges against an accused person due to insufficient evidence does not amount to exoneration, but is merely a reflection of the systemic difficulties in our legal system in dealing with claims of sexual assault.

Victims' Trauma

Yesterday the woman said that since hearing of the latest alleged rape she had been a physical and mental wreck – unable to sleep as visions of her own ordeal recur. 'I'm not able to sleep, some days I am crying at the drop of a hat, yelling and screaming for no reason,' the woman said yesterday. Since the incident she has shunned going out at night and has had about eight months of counselling.

23.03.04 Cindy Wockner: Secret Victim breaks silence – 'It's time people knew the truth' – BULLDOGS SCANDAL EXCLUSIVE. The Daily Telegraph, local p.1.

Tim Watson began his column in The Age with the curious phrase that the past 24 hours have become a living nightmare for the St Kilda Football Club players and officials. Thereafter not once did he mention the emotional suffering of the alleged rape victim...

23.03.04 Phil Cleary: Footy's subculture of misogyny. The Age, Opinion p.11.

Kylie (who says she was raped by a footballer): 'I feel disgusted and it's ruined my life, to be honest'.

25.03.04 Emma Quayle and Melissa Ryan: AFL probes more sex claims. The Age, Front page.

Why Victims May Not Report Rape

The latest woman to come forward yesterday told the Australian she was terrified to go to the police after the sexual assault two decades ago. "You think they are going to kill you. They make you fear for your life", she said.

03.03.04 No author named.: 'Degradation' culture knows no boundaries. The Australian, Local p.3.

Rape counsellors say it is traditionally guilt, the fear of not being believed or the retort that "she asked for it", that has stopped women from reporting rape. Mary Heath, a criminal law lecturer at Flinders University says that only 15% of rapes are reported. Of those, only 2% end in court convictions. 'Women are reluctant to report rape... without a legal and administrative team to support them. We know most people don't talk about it and the message to the victim clearly is "we don't believe you".'

18.03.04 Richard Yallop: Tackling the bloke code. The Australian, features p.11.

Kelly (who was raped by a footballer): 'I felt so disgusted, more with him than with myself... They bought me some drinks and I drank them to be polite'... She feared a rape trial might jeopardise her dreams of becoming a police officer... She did not

report to police because she had been drinking and did not want to be branded a troublemaker... 'I'm not looking to do anything except stop it from happening again.'
26.03.04 Nikki Protyniak: new Footy rape claim. *The Herald Sun, News p.7.*

Legal Barriers

'It's not always that a person is not guilty of an offence, but that it simply can't be proved. You see many people come out and say, "I'm innocent". This option (an alternative verdict of 'unproven' would mean they couldn't do that' Vanessa Swan said. 'It's the criminal offence you're most likely to get away with. The proportion of cases that get to court is so small... Judges still don't get it that it doesn't matter if she said yes last time, she has a right to say no this time,' she said... In Victoria, a study by Melanie Heenan showed that the rule changes introduced in the 1990s to limit the practice of allowing sexual histories into evidence had not worked. (In 26 of 34 sexual assault cases) judicial discretion was used to allow a woman's sexual history to be raised.

22.03.04 Peter McGarry: *Push for unproven verdict in sex cases. The Australian, Local p.5.*

Charges against Heuskes and Burgoyne were dropped 'because of no reasonable prospect of conviction on any criminal charge' ... Mr Atkinson... said 'that's not to say the players concerned were behaving acceptably – they weren't. They were behaving reprehensibly.'

23.03.04 No author named: *Action of AFL trio 'appalling' – BULLDOGS SCANDAL. The Daily Telegraph, Local p.3.*

'Their (Heuskes, O'Laughlin and Burgoyne) behaviour was reprehensible... The DPP formally warned them about their behaviour... the charges were dropped because there was no reasonable prospect of a conviction. They were not behaving acceptably.' (Attorney General Michael Atkinson SA)

23.03.04 Greg Kelton: *Players text message claim. The Herald Sun, News p.3.*

Reproducing the Mythology

Despite the significant effort of many writers to discredit and undermine the pervasive rape mythology, there were also commentators who invoked particularly derogatory and harmful stereotypes in their discussion of sexual assault in the football context. The notion that footballers, by virtue of their 'hero' status, were vulnerable targets of predatory women seeking to 'milk their prestige' was one that was afforded substantial currency. A number of reports canvassed the 'risks' facing young players, and particularly the risk posed by 'groupies' and women who 'throw themselves' at footballers. These reports placed women, and specifically the women who made the allegations against Milne and Montagna, in a position of superior power and responsibility in social and sexual relations involving footballers, disregarding the power these men would derive from their celebrity status. By representing the women as sexually active, provocative and predatory in their behaviour, these reports perpetuated the myth that women precipitate sexual assault, and ignored the matter of whether or not consent was given to the sexual activity in question.

Some of the most derogatory aspects of popular rape mythology voiced at this point in time concerned the notion that women maliciously invent stories of being raped; out of bitterness, as an 'alibi', and in the football context, for financial gain. An

article by Damian Foster in *The Age* most brazenly articulated the view that bitter women accuse men of rape after a regretted sexual encounter in which the man merely has not shown her the affection she craved. These reports invoked powerful gendered norms of sexual behaviour that function to cast women paradoxically as either cold sexual predators or overly emotional with unreasonable expectations of affection that leave them bitter when they are not fulfilled. These reports implied that women who alleged sexual assault, particularly against footballers, have ulterior motives that underlie their claim.

Many young, attractive girls are very talented at getting the attention of young, impressionable footballers and miking the situation for the associated prestige. Players are often willing participants in these complicated power plays, but as a rule, the girl generally makes the first move...

Once the act is complete the footballer generally can't wait to get out of there. The girl, on the other hand, will want to be held and cuddled... The girl feels used and as if she has been treated appallingly...

A footballer may land himself in trouble because it just doesn't occur to him to develop tactful, diplomatic methods of saying goodbye. When the girl realises the total indifference with which she is being treated after intimacy, bitterness sets in and it lingers.

12.03.04 Damian Foster: When an elite footballer has sex with a girl... *The Age*, Opinion p.13.

One girl was so convinced of her intentions that she sidled up to the coach to explain to him what she planned to do later in the night to one of his players... At 2am they were woken up by loud banging on doors by girls from the function... players were woken up in the early hours of the morning and subject to determined, but unwanted, advances.

18.03.04 Tim Watson: AFL players and the trouble zone. *The Age*, Sport p.16.

Footballers are confused... by what they see as a radical departure by women from the conventions that have applied for as long as they can remember... The 'rules' have changed. Women aren't as compliant, as accommodating as they used to be. No longer prepared to sit quietly on their bruised egos and broken hearts...

We're not talking rape here, because rape is rape, and no is no, regardless of the preamble... Not only are women prepared to go to the police if they believe they've been mistreated; to go to the media with their story, some of them know changing landscape means sportsmen aren't as untouchable as they once were...

There is the 'jilted lover' aspect, too, when affection for one party is sex for the other. Then there's the rape card as an alibi, when someone feels degraded or needs to explain to a husband/partner/parent where they've been and why they're distressed... Guilt often seems to be assumed before it is proven. Massive damage is done to all the victims before the legal process is completed.

20.03.04 Unknown. *The Herald Sun*.

The public profile of the players accused and the increasing propensity for the media to engage in 'chequebook journalism' led many reports to suggest or speculate that the women making the allegations were doing so for financial gain. Although this

type of journalism raises many issues in relation to sexual assault, particularly given the obstacles to finding a remedy through the legal system and the significant costs of legal representation, reports focused on the potential for financial remuneration to undermine the credibility of the claimants.

Similarly there was no recognition that civil proceedings and private payments are commonly made in the interests of the club and player to ensure the allegation is not made public, or as a result of legal advice and the practical reality that the chances of a conviction in rape cases is very low.

Women aren't as embarrassed to say they agreed to sex with a man they'd only just met... but insist that they hadn't agreed to being brutalised, insulted or humiliated, and they want redress... But they also seem quite interested in another factor – namely indecent amounts of money... Publicity is more effective than the law in obtaining redress.

21.03.04 Germaine Greer: Ugly sex just got a lot louder. Front page.

'We never asked for any money and we've never received any money', one girl (who had made an allegation of sexual assault against a West Coast Eagles player) said. 'We've never been near the club. We don't even follow football. We were there because we knew one of the boys and thought we'd be safe'.

22.03.04 Adam Cooper: Eagles players were investigated on sex claims. Sport p.3.

Phase 3: Bulldogs' Case Unravelling

The witnesses say they saw the woman at different times at the lower swimming pool, but never with six players... One witness told investigators the couple appeared to be enjoying themselves... The second witness said he believed they were engaging in oral sex... The alleged victim later had attempted to enter the room of two Bulldogs players but they... closed the door in her face. It was only several minutes later that she was found crying on the lawn just meters from the pool, her clothing still wet. It was then that she made the allegation.

Noad said great damage had been done to the club's players and their families and the alleged victim. 'It's been a very tough time, and still is for the players and their families.'

24.04.04 Steve Barrett: Two witnesses reject Bulldogs rape claim. The Australian, local p.7.

What is known and agreed is this: four nights before any complaints were raised, a handful of Bulldogs players indulged in group sex with the woman at the centre of the allegations. Four nights later she would return to the hotel... and some time between 8am-9am a housekeeper would stumble on her curled up in a foetal position, tears coursing down her cheeks claiming she had been pack raped.

In the eyes of police, the woman was undermined not only by independent witnessed, but by inconsistencies in her own testimony... One witness gave a sworn statement that he saw the woman happily frolicking with a player in the pool at about 6.30am. A second confirmed the couple was engaged in oral sex in the pool soon afterwards...

And players... told police that the woman tried to enter the room shortly before 8am, but they turned her away... One player has also admitted to having consensual sex with her... earlier that night and then again at the pool that morning.

29.04.04 Drew Warne-Smith: Accuser had sex with players. The Australian, Local p.4.

Lawyers hope the tape will back players' claims that the young woman was making lewd comments and pestering players, some of whom she had consensual sex with three nights earlier, as they gambled on poker machines. The woman, who accused the players of rape in the hours after she left the hotel, was also allegedly seen licking a player's drinking glass in a sexually provocative way.

Solicitor John Carmody: 'she was jumping over the backs of the players and pressing the payout buttons (on the poker machines) without their permission... we also have information she picked up a player's glass and began licking it with her tongue'... The witnesses saw her engaged in sexual activity with only one player in the resort swimming pool at the time and place she said the gang rape occurred... 'I presumed they were having oral sex; she wasn't blowing bubbles in his belly button.'

04.05.04 Steve Barrett: Dogs' solicitors demand tapes. The Australian, Local p.4.

In the days before the police announced that they would not be proceeding with charges against any of the Bulldogs players, the woman's account of what happened in Coffs Harbour had already begun to be discredited and undermined in articles reporting witness statements that conflicted or cast doubt on her version of events. Once the announcement had been made, some reports conveyed a sense that her claims were baseless despite police assurances that there was evidence to support her claim. Underlying these reports was the notion that women fabricate tales of rape as a result of bitterness or rejection after a sexual encounter. Whereas this had been the veiled implication in some early reporting of the Bulldogs' incident, the decision not to press charges enabled this myth to be deployed with increased confidence and conviction.

These reports played on the widely held misconception that a decision not to proceed with charges indicates that the woman's story is untrue or unsubstantiated. A number of articles appeared at this time with a revised set of relevant 'facts', including highly derogatory imagery invoked by the players' lawyers: for the first time it was reported that the woman had 'provocatively licked the players' glasses in a sexually seductive way' and had been 'jumping on their backs.' As well as being hurtful to the woman who says the Bulldogs raped her, these reports inappropriately took a decision not to proceed with charges as an indication of the falsity of her claim, undertaking an increasingly brazen sleight on the character and reputation of the woman concerned.

The decision not to proceed with charges: the Bulldogs and the Police

The 20-year-old woman... was devastated last night after police told her the inquiry had been abandoned. But the Bulldogs Chief executive Malcolm Noad, said: 'Let's believe nothing happened in Coffs Harbour'... Mr Noad called the DPP's decision 'a true vindication' and said he was proud of the players.

28.04.04 Les Kennedy and Jacqueline Magnay: Bulldogs rape case thrown out. Alleged victim devastated as police chief declares: 'it's dead in the water'. The Sydney Morning Herald.

Noad said his players had been vindicated. 'I think it should have been a true vindication. The police have mounted an incredibly extensive investigation... and our players have been vindicated.'

The victim's words (that at least six of them sexually assaulted her), since discredited, echoed long and loud.

28.04.04 Peter Lalor: 'Night of lunacy' comes to nothing. *The Australian, Local p.1*

Noad: 'It should be seen as a true vindication... I don't think there should be any doubt that our players have been vindicated.'

28.04.04 Martin Churlov: Dogs clear of rape charges – But NRL still pursues player misconduct. *The Australian, Local p.1*²⁴

Noad: 'Very disappointed that there may be a cloud over their heads because they don't deserve it.'

29.04.04 No author named: Rape case club fined. *The Herald Sun, News p.12.*

The Bulldogs' initial response to the announcement that no charges would be laid was to claim that the players had been vindicated, and their innocence proven. Statements made by Malcolm Noad to that effect received widespread media attention; however they were not well received on the whole. Reporting of the Bulldogs' insistence that they had been exonerated was frequently accompanied by sympathy for players, and the implication that the trauma caused to the players as a result of the allegation was unwarranted and undeserved. However, there was also a common concern to emphasize that 'insufficient evidence' does not equate to a confirmation of the innocence of the accused.

Noad said... 'I feel a tremendous amount of relief... so I can't imagine what the players feel like after going through what they've gone through in the last two months.'

28.04.04 Peter Frilingos: Still in the doghouse with the NRL – THE BULLDOGS AFFAIR. *The Daily Telegraph, Sport (Opinion) p.78.*

Braith Anasta: 'I'm hoping we can forget the whole thing. This has given the club massive grief... The club has suffered and the game has suffered.'

28.04.04 Dean Ritchie: STOP THE ABUSE – Price's impassioned plea to rival clubs – THE BULLDOGS AFFAIR. *The daily Telegraph, Sport p.80*

Willie Mason said: 'We got smashed for months for this and once the truth came out we expect a bit of an apology from some of the media, and maybe a few front pages saying "sorry, guys, we didn't really mean that".'

Anasta said: 'it's been a tough time for us. We feel that a lot of people treated us poorly... We have endured a lot of innuendo and, probably, untruth.'

28.04.04 Les Kennedy and Jacqueline Magnay: Bulldogs rape case thrown out. Alleged victim devastated as police chief declares: 'it's dead in the water'. *The Sydney Morning Herald.*

²⁴ See also 28.04.04 Les Kennedy and Jacqueline Magnay: Bulldogs rape case thrown out. Alleged victim devastated as police chief declares: 'it's dead in the water'. *The Sydney Morning Herald* and 29.04.04 Brad Walter, Jacqueline Magnay, Les Kennedy and Stephen Gibbs: Bulldogs fined \$150,000 – more if they offend again. *The Sydney Morning Herald*, page 1.

Folkes called the rape investigation humiliating, embarrassing and traumatic for the players. He also revealed counselling had been made available not only to the players but also to their families in a bid to cope with the day-to-day trauma.

'You know, they're not guilty of anything yet they have been hounded', Folkes said of his players.

*29.04.04 Paul Kent: **HOUNDED DOGS – STEVE FOLKES INTERVIEW.** The Daily Telegraph, Sport p.72.*

Folkes said: 'We knew from day one we've been guilty of nothing... It's been extremely difficult. The family has been abused, harassed, humiliated all through it.'

*29.04.04 Alex Brown: **Police tried to trick players: Folkes.** The Sydney Morning Herald, Sport p.36.*

The Bulldogs believe the whole handling of the rape allegations against them have been appalling... 'The players are feeling really let down by the system', Folkes said... 'They keep saying the six accused, the six accused players. It's a joke. It really is a joke.'

'We never got a chance to heal from one issue to the next and the accumulative effect of it was pretty severe... You know they're not guilty of anything yet they've been hounded,' Folkes said of his players.

*29.04.04 Paul Kent: **Righting the wrongs – We never got a chance to heal from one issue to the next.** The Daily Telegraph, Sport p.68.*

Noad: 'This has been a very traumatic experience for everybody in Rugby League and everybody at the club for the last three months.'

*19.05.04 Peter Lalor: **Fines for Bulldogs raise new questions.** The Australian. Local p.3.*

The response of the Coffs harbour police in stressing that the decision not to press charges was not an indication that the woman was not believed, or that her claim was unsubstantiated, represented a powerful voice of opposition to the Bulldogs' and some commentators' insistence that the woman's story had been proven false. Chief Inspector Jason Breton publicly and repeatedly emphasised that the decision was rather reflective of the systemic difficulties associated with investigating and prosecuting cases of sexual assault.

His comments formed part of a wider discussion within the media of both the legal and cultural obstacles faced by victims of sexual assault when they report the incident to police. This discussion, like the earlier discussion of sexual assault more generally was significant in its refutation of the myths informing popular understanding of rape. There was widespread recognition that the legal system, its procedures and the prejudice of many working within it disadvantage rape victims, diminishing the possibility for a just outcome, and in many cases replicating the dehumanisation and trauma of victims' initial experience of rape.

Contradicting the Bulldogs

Breton said he remained convinced that the six players were involved in an alleged incident with the woman.

He said inconsistencies in timeline and minor issues that don't fit with the original complaint 'can happen in cases of serious sexual assault and any serious offence when trauma is involved because victims will often make a complaint very soon after an offence and trauma does play a part.

Breton said the complainant and her family were devastated by the decision to drop the case.

29.04.04 Steve Barrett: Friend's account helped sink the Bulldogs rape case. The Australian, Local p.1

All that happened is that... police have found insufficient evidence to charge any players. If that is a cause for celebration then the game has an even greater problem... The Bulldogs' defiant mood was... inappropriate.

29.04.04 Richard Hinds: Neither forgiven nor forgotten. The Sydney Morning Herald, Sport p.36

Police said evidence existed that a young woman had been raped... (there was) not enough evidence to charge the six accused players... but some evidence substantiated the woman's claims.

Chief Inspector Jason Breton: young mother at centre of the scandal 'understandably distraught.'

29.04.04 No author named: 'Rape case club fined. The Herald Sun, News p.12.

The decision not to take further action... is part of a much bigger picture in which justice for sexual assault victims is denied...

The DPP and police say they did not have enough evidence to lay charge – not that the event did not occur. There is a clear distinction between these two statements. The statements by the football club that this decision vindicates the players are incorrect and show lack of contrition.

30.04.04 Karen Willis: Betrayal and abuse that comes after rape. The Daily Telegraph, Features p.27.

Even when police called off their enquiries Noad initially said, "let's believe nothing happened in Coffs Harbour". He later apologised but the remark demonstrated a disturbing desire to think all was well.

01.05.04 No author named: Bulldogs must learn to play by the rules. The Australian, Features, p.16.

The fact remains that, whether the acts were criminal or not, something happened at Coffs Harbour. We know that because Breton has confirmed it over and over... He painstakingly explained that sometimes the physical evidence of rape and consensual sex can be one and the same.

04.05.04 Neil Breen: That's gall Folkes, now is hardly the time for arrogance. The Australian, Sport p.51.

Legal Barriers

Des Sturgess QC (former DPP 1985-90): 'A lot of evidence said to be corroborative can be consistent with a rough sort of wooing... Even consensual wooings can be rough – there may be scratching, bruising, tenderness in the private areas, but that does not mean it's rape... Often you have these girls where they have allowed

themselves to get into this situation and they often regret it and become distressed, but there may not be much in the way of corroboration.'

29.04.04 Louise Milligan and Vanessa Walker: Murky World of he says, she says. The Herald Sun, Features, p.9.

Breton: 'the decision not to charge anyone in this instance should not be seen as a deterrent to any person to come forward to police if they are the victim of a serious sexual assault'...

28.04.04 Peter Lalor: 'Night of lunacy' comes to nothing. The Australian, Local p.1

Feminists fear the decision not to proceed with the Bulldogs rape case will lead to fewer women reporting sexual assaults. The decision not to press charges was a reflection of the high level of evidence needed to prove rape, criminologist Kerry Carrington said... She said the decision may discourage women from reporting sexual assaults. Rape already has the lowest reporting rate and the highest attrition rate of any crime in NSW...

28.04.04 Vanessa Walker: Decision will scare victims. The Australian, Local p.4.

While they may disagree on the reasons, rape victims, prosecutors, defence lawyers and feminist commentators agree that rapes are notoriously difficult to get to trial, let alone secure a guilty jury verdict.

Kerry Carrington (criminologist): 'Criminal standard of proof requires a high level of corroborative evidence, but the nature of rape...makes this evidence difficult to produce. It's a travesty of justice from the complainant's point of view. Don't equate justice with the law when it comes to sexual assault.'

Jocelyn Scutt: Blaming the system is wrong, and the problem is more pernicious. Law reform changed the rules of evidence to benefit rape victims, but a mind-set prejudicial to women remains in the courtroom. 'Irrelevant questions are still being asked, such as what the woman was wearing, whether she was drinking with the alleged perpetrator before the act, whether she had a prior relationship with him. Judges don't exercise the control they should... A canny defence lawyer would argue that because she had group sex with these men in the past, "she was ready to consent to group sex again."

Helene Turner (rape victim): beyond legal issues are the challenges of remembering minute details of something that happened on the worst day of your life. 'Any little inconsistencies can be torn apart... I think the victim in (less-clear cut cases, like the Bulldogs case) is made to feel guilty because they might have "brought it on themselves", and yet no victim brings it on themselves because otherwise it would not be rape.'

29.04.04 Louise Milligan and Vanessa Walker: Murky World of he says, she says. The Herald Sun, Features, p.9.

In general, sexual assault victims... battle against an antiquated and misogynist system...The victim will undergo an invasive forensic examination and then, over hours or days, make a statement that must include every detail of her ordeal... If in this process the woman provides conflicting information or uncorroborated evidence,

regardless how minor, this may be used in court to 'prove' the complainant is lying, or at least unreliable... This ignores the normal human response to trauma...

This is not an indication of lying; this is normal. In cross-examination... she will be accused of lying or being compliant and of having ulterior motives. Her actions, dress, reasons for being there and her sexual or other history with the perpetrator will be put under the microscope... All attempts will be made to discredit, intimidate and harass the victim.

30.04.04 Karen Willis: Betrayal and abuse that comes after rape. The Daily Telegraph, Features p.27.

The Fallout

In the months following the decision by police not to lay charges against the Bulldogs, a number of further allegations came to light, and sexual assault generally continued to be a source of general discussion. While the media's treatment of allegations against the Hawks, ex-player John McCarthy and the Carlton football club raised many of the same problems discussed above relating to the way rape and its victims are portrayed in the media, a number of feature-length articles and editorials also appeared that emphatically set the allegations against footballers within the context of a broader social problem concerning sexual assault.

"Anna" felt that (the police) had no interest in investigating it. 'They said 'we talk to a lot of ladies like yourself, who go drinking with strange men'. I felt defeated and deflated. I began to doubt myself. I started to feel like a stupid woman who put herself in a vulnerable position.'

30.05.04 Liz Porter: He said, she said. The Age, Agenda p.4

The latest sex abuse claim highlights a wider problem in society regarding the respect with which women are treated... Insulting attitudes towards women are not only tolerated, but tacitly condoned by some officials at some amateur clubs... Many women still have no confidence they will be believed by police and lawyers, the way their stories are tested becoming a traumatic inquisition... Victims are often deprived of their day in court.

09.07.04 Editorial. Fair Play with Women. The Herald Sun, Opinion p.18

Living through a sexual assault is merely the beginning of emotional stress and psychological trauma... that haunt victims for years... Heather Gridley (Vic Uni psych lecturer): 'The first thing experienced by a victim is loss of control... Victims are often overwhelmed by feelings of anger, confusion and grief.'

Some victims' responses are more valid to than others police.

Julie Stubbs (Sydney Uni institute of Criminology associate professor): Lack of evidence certainly doesn't mean a victim isn't believed or a defendant isn't guilty.'

Rebecca (rape victim): the distress and 'humiliation' of enduring cross-examination at times caused her to contemplate suicide... 'I'll never get over it. Some days are

better than others but right now I feel like justice hasn't really been done, because he did get off without any conviction.'

07.08.04 Richard Kerbaj: Inner Demons. *The Australian, Features, p.30.*

The Bulldogs' Grand Final win in October saw some very negative reporting suggesting that their on-field success could dispel the doubt remaining over the Bulldogs' professed innocence, or that it could redeem the Bulldogs for their behaviour. These reports dismissed the very fundamental issues associated with sexual assault, replacing them with an appallingly simplistic and artificial 'resolution.'

The Bulldogs washed away three seasons of off-field crisis and controversy with a memorable grand final win... Rape accusations that ravaged the club earlier this year faded into distant memory.

04.10.04 Karl De Kroom: Dogs rise from cheats to champs; revival ruins Fittler farewell. *The Herald Sun, Sport p.40.*

The Effect on Reporting of Sexual Assault

'It is that whole community debate around sexual assault that brings women forward', (rape crisis) centre manager Karen Lewis said. 'This is particularly true when we are seeing a lot of positive commentary about the bravery of victims.'

23.03.04 Staff reporters: Publicity drives rise in sex assault reports. *The Australian, Local p.3.*

As a powerful and accessible voice on sexual assault, the media's treatment of those who allege sexual assault has the capacity to influence victims' decision whether or not to report the offence. The high level of attention received by cases such as these have the capacity to generate increased awareness and understanding that victims are not alone in their experience, and may inspire them to come forward. However, rape crisis centre workers have expressed concern that negative portrayals of those who did come forward in the high profile cases against footballers may discourage other victims from reporting the offence.²⁵

Strategies and solutions: how to more conscientiously respond

The AFL and NRL

The response of the players, clubs and overarching bodies governing the respective codes was highly inconsistent. The lack of a prescribed code for dealing with allegations of sexual assault enabled some highly inappropriate comments to be made and approaches to be taken at club level that were neither uniform nor approved by the relevant administration.

A comprehensive and compulsory code clearly articulating appropriate procedures, protocols and practice that all clubs and players must follow when an allegation is made would ensure that the response is consistent, accountable and principled. The code ought to create obligations for education and training for players

²⁵ Vanessa Swan, Interview 23.11.04 and Melanie Heenan, Interview 29.10.04.

and officials regarding the relationship between attitudes and consequences with respect to sexual assault, and outline the responsibilities of all members of the community in their social and sexual relationships.²⁶

On a more general level, an increased presence of women within the clubs and administrations of the relevant codes (and in society generally) would ensure that a more diverse range of views are expressed and inform the governance of the sport. The codes need to promote a culture that regards women as integral and equal in their role within the sport, whether that be as a fan, official or player.

The Media

Awareness needs to be raised within the media about the broader social context of sexual assault and the operation of popular assumptions that function to the detriment of those who allege sexual assault. Media coverage of the allegations against footballers exhibited a tendency to treat these types of sexual assault and their circumstances as rare that needs to change if media representations of sexual assault are to accurately reflect the social reality.

Ongoing education and training for journalists needs to be implemented addressing the broader social context of sexual assault, canvassing the effects of popular assumptions, (no doubt in many cases made unwittingly) and outlining the consequences of framing allegations in particular ways.

Individual journalists also need to be held accountable for irresponsible reporting. Through letters and phone calls to the editor or journalist themselves, or by complaints lodged with the Australian Press Council, journalists may be informed and held accountable for their approach to reporting.

²⁶ Melanie Heenan, Interview 29.10.04.

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Appendix 1: Timeline of Allegations

This timeline outlines those allegations detailed in print media reporting of sexual assaults against footballers. It is not a comprehensive guide to all allegations raised in 2004: a number of further allegations receiving substantially less attention also came to light; however they are not included here.

22.02.04 NRL Canterbury Bulldogs

A 20 year old woman accused six members of the Bulldogs of raping her at the team's hotel on the morning of the 22nd of February, while the team was away on a pre-season trip. The woman had previously engaged in consensual group sex with Bulldogs players, and had consensual sex with one player on the night in question. No charges were eventually laid.

29.02.04 NRL Canterbury Bulldogs

A 42 year old woman alleged that she was sexually assaulted by a Bulldogs player at the team's hotel in February 2003 while another looked on masturbating. The team was away on a pre-season trip to Coffs Harbour. The woman had met the player earlier that evening at a nightclub and accompanied him to the hotel where they engaged in consensual sex. She alleges that the player then left the room saying he was going to get a drink. A second player returned in his place without her knowledge or consent.²⁷ The woman reported the incident to police days later after club players and officials had tried to persuade her to drop it. She was assured by the club that the players would be dealt with.

05.03.04 NRL Melbourne Storm

A young woman alleges that she was sexually assaulted by two Storm players at a South Yarra flat in early February 2004. The players were socialising and out of the club's jurisdiction at the time. No charges were laid.

17.03.04 AFL St Kilda Saints

A woman alleges that she and another woman were sexually assaulted by Stephen Milne and Leigh Montagna at the home of one of the players on 15th March 2004. One of the women had previously met at least one of the players. Before meeting the women on the night concerned, the players had been celebrating the club's Wizard Cup win at a hotel after the St Kilda family day. It is alleged that the players swapped partners after consensual sex without the knowledge or consent of the women.²⁸ No charges were laid.

19.03.04 AFL Sydney Swans and Port Adelaide Power

A 25 year old woman alleged that she was sexually assaulted by Adam Heuskes and Peter Burgoyne in the presence of Michael O'Laughlin, in bushland near the bar at which they had been socialising. The woman alleges that she was semi-conscious at the time of the assault. Charges were initially laid against Heuskes and Burgoyne but were subsequently dropped as there was 'no reasonable prospect of a conviction.' A

²⁷ 23.03.04 Cindy Wockner: Secret Victim breaks silence – 'It's time people knew the truth' – BULLDOGS SCANDAL EXCLUSIVE. *The Daily Telegraph*, local p.1.

²⁸ 18.03.04 Padraic Murphy: Players train on amid sex crisis. *The Australian*, Local p.3.

settlement of a reported 4200,000 was negotiated after the woman initiated a civil claim.²⁹

21.03.04 AFL West Coast Eagles

Two 19 year old women allege that they were sexually assaulted by three Eagles players at a house in Perth in April 2000. The women had known one of the players from their neighbourhood for years, and had attended a party with him weeks earlier without incident. The women allege that they were assaulted after being deceived into entering the house after being told they were going to a party.³⁰ No charges were laid.

31.03.04 NRL Cronulla Sharks

A 19 year old woman alleged she was sexually assaulted by several Sharks players at the team's hotel while they were away on a pre-season trip in New Zealand during February 2002. The woman had been socialising with the players earlier in the evening.³¹ No charges were laid.

03.05.04 AFL Brisbane Lions

A woman in her 20s alleges that she awoke to being sexually assaulted by one Brisbane player, while four others watched and another slept on the floor in a London motel in October 1999. The woman alleged that she was semi-conscious during the assault. The woman had earlier met the players, who were away on an end-of-season trip, at the Walkabout Inn in London where she had met up with a friend of her boyfriend who played for the Lions.³²

21.06.04 AFL Hawthorn Hawks

A woman from Los Angeles alleges that she was raped by at least two Hawthorn players and a club official at the team hotel in Hawaii where the team was away on an end of season trip in October 1998. She had earlier met the players at a nightclub and boat cruise where she alleges that her drink was spiked. She claims to have been semi-conscious during the assault. No charges were laid.³³

²⁹ See 19.03.03 Russell Robertson, *The Herald Sun*.

³⁰ Kath Haines, Summary of the allegation, Football Fans Against Sexual Assault, www.ffasa.org, accessed 21.11.04.

³¹ Kath Haines, Summary of the allegation, Football Fans Against Sexual Assault, www.ffasa.org, accessed 21.11.04.

³² Kath Haines, Summary of the allegation, Football Fans Against Sexual Assault, www.ffasa.org, accessed 21.11.04

³³ 21.06.04 Padraic Murphy: I was drugged, says AFL 'gang rape victim', *The Herald Sun local*, p.5.

